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SENATE

REPORT
No. 97-125

NATIONAL HEALTH SERVICE CORPS AMENDMENTS OF 1981

MAY 21 (legislative day, APRIL 27), 1981.—Ordered to be printed

Mr. HATCH, from the Committee on Labor and Human Resources, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany S. 801]

The Committee on Labor and Human Resources, to which was referred the bill (S. 801) to amend the Public Health Service Act to revise provisions relating to the National Health Service Corps, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

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I. Summary of Legislation

As approved by Committee, S. 801:

1. Revises the definition of "health manpower shortage area" and the procedural steps necessary for an area to achieve such designation, and gives the Secretary access to information which would allow for a more accurate placement of National Health Service Corps personnel.
2. Extends the authorization of the National Health Service Corps program for fiscal years 1982, 1983, and 1984.
3. Transfers the National Health Service Corps scholarship program from Section 751 through 757 of the Public Health Service Act to Sections 338A through 338G, respectively, and revises its provisions to strengthen the opportunities for independent practice.
4. Establishes a phase-out of the National Health Service Corps scholarship program and allows, at the Secretary's discretion, negotiations for the conversion of scholarship service obligations into loans.

II. History of S. 801 (Including Hearing)

S. 801, a bill to amend the Public Health Service Act to revise provisions relating to the National Health Service Corps, was introduced on March 25, 1981, by Senator Hatch and was referred to the Committee on Labor and Human Resources.

At the May 6, 1981, executive session of the Committee on Labor and Human Resources, the Committee considered S. 801. An amendment was offered by Senator Kennedy, with regard to the Secretary's determination to convert scholarships into loans. This was adopted by the full Committee, by voice vote.

The Committee reported S. 801, as amended without objection. The bill was reported to the Senate on May 15 and the report accompanying S. 801 was filed May 20. The specific provisions are set forth in this report.

S. 801 was adopted by the Committee after receiving comments from many individuals, organizations and associations as well as from Richard S. Schweiker, Secretary, Department of Health and Human Services. On September 24, 1980, the Committee held an oversight hearing on the National Health Service Corps. In addition public hearings on S. 801 were held on April 8, 1981, by the Committee on Labor and Human Resources.

The following witnesses testified on April 8:

R. Ross Woolley, M.D., Associate Professor and Chairman, Division of Community Medicine, Department of Family and Community Medicine, University of Utah School of Medicine; Jack Hadley, Ph.D., Senior Research Associate, The Urban Institute, Washington, D.C.; and Gregory Bulger, Executive Director, Mattapan Community Health Center, Boston, Massachusetts.

Testimony for the record was also received from the following organizations: Association of Schools & Colleges of Optometry & American Optometric Assoc.; American Medical Student Association; Association of American Medical Colleges; American Medical Association.

Public Laws: 97th Congress / 1st Session / 1981

III. Background

In 1970, Congress enacted Public Law 91-623, the Emergency Health Personnel Act, which amended Title III of the Public Health Service (PHS) Act to authorize a program for PHS health personnel to volunteer their services in health manpower shortage areas. The need to encourage health personnel to serve in such areas resulted from perceived inadequacies in the geographic distribution of health professionals which resulted in individuals being denied health care or having to travel long distances to receive care.

The Emergency Health Personnel Act Amendments of 1972, Public Law 92-585, officially established the National Health Service Corps (NHSC) as a defined unit within the PHS for the purpose of implementing the 1970 Emergency Health Personnel Act. Specifically, the Corps was established to provide health care services to persons residing in health manpower shortage areas (HMSA's) through the placement in those areas of health professionals and health care resources. The definition of HMSA's was subsequently expanded in 1976 and as of June 30, 1980, the Department of Health and Human Services (DHHS) had designated 1,855 primary health care shortage areas, 881 dental shortage areas, and 218 psychiatric shortage areas.

The 1972 Act also amended Title VII of the PHS Act to authorize NHSC scholarships to be awarded to health professionals while still in school. The purpose of this was to provide adequate supplies of trained physicians, dentists, nurses, and other health specialists for the Corps. Under this program, health professions students agree to later serve at Federal government expense in the National Health Service Corps in a health manpower shortage area in return for scholarships and stipend support while in school. For each year that a scholarship is received, students must agree to serve in a health manpower shortage area for 1 year, with a minimum service obligation of 2 years. The scholarship recipient is required to fulfill his service obligation through the full time clinical practice of his profession either as a commissioned officer in the Regular or Reserve Corps of the PHS (after a finding that he is qualified) or as a civilian member of the Corps; or, at the discretion of the individual, in private practice in a designated health manpower shortage area which has a priority for the assignment of Corps members.

The legislative authority for the NHSC and its scholarship program expired on June 30, 1974. Public Law 93-385 extended the scholarship authority for fiscal year 1975. Public Law 94-63, the Public Health Service Amendments of 1975, extended the authority for the NHSC program for two years for fiscal years 1975 and 1976. Congress later enacted Public Law 94-484, the Health Professions Educational Assistance Act of 1976, which continued the authority for the Corps through fiscal year 1977, and extended its scholarship program for fiscal years 1975 through 1977. The Act made substantial revisions in health professions programs generally, including the Corps and its scholarship program. It also extended the authorizations for these two programs for three years, through fiscal year 1980.

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Public Law 94-484, in response to continuing concerns about the geographic distribution of health care providers, included several provisions to strengthen and enlarge the Corps and its scholarship program. NHSC authorizations were increased to $34 million in fiscal year 1977, $47 million in fiscal year 1978, $57 million in fiscal year 1979, and $70 million in fiscal year 1980. Even greater growth was planned for the NHSC scholarship program by raising authorizations to $40 million in fiscal year 1977, $75 million in fiscal year 1978, $140 million in fiscal year 1979, and $200 million in fiscal year 1980. It was intended that these scholarship recipients would eventually enter a vastly expanded NHSC service program.

The NHSC began full operation in 1972. In that year, 181 Corps personnel staffed 94 Corps sites. Appropriations for the program totaled $12.5 million in fiscal year 1972. By 1980, 2,058 Corps personnel served 1,036 communities. Of that total, 1,197 were physicians, 344 were dentists, and 517 were other health professionals. The NHSC received an appropriation of $70 million for fiscal year 1980.

Three million dollars was appropriated for NHSC scholarships in fiscal year 1974, the program's first year of operation, and 372 awards were made that year, all to medical students. In the 1979-80 school year, a total of 6,408 scholarships were awarded from an appropriation of $75 million. Of that total, 2,379 represented new awards with continuation awards numbering 4,029. Most new scholarship awards—1,900—were made to medical students. Assuming passage of the current rescission request for scholarships, for fiscal year 1981 there will be an estimated 4,417 awards made for continuing scholarships with no new awards to be made. There will be 3,720 scholarships awarded to medical students; 407 to dental students; 127 to veterinary, optometry, podiatry, and pharmacy students; 109 to nursing students; and 54 to other health professionals. For fiscal year 1981, the average NHSC scholarship award is estimated to amount to $14,208. By the close of calendar year 1981, it is anticipated that 6,817 students will have completed academic training under the NHSC scholarship program. Of these graduates, 2,052 will be serving their period of obligated service in fiscal year 1981.

IV. Committee Views

The National Health Service Corps (NHSC) has had an impact on placing health professionals in underserved areas and assuring that such areas receive health care services. The Corps' scholarship program has also financed the education of many health professions students, particularly physicians, in return for their service in these areas.

The major features of the Committee bill are:

(1) a revision of the definition of health manpower shortage areas and the procedural steps necessary for an area to achieve such designation;

(2) use of Corps personnel only in areas where there is a demonstrable demand for their services as well as a statistically established need;

(3) an authorization level, consistent with the President's March 10th request, which allows the Corps to grow from 2,060

individuals in 1981 to a level of 2,500 assignees in 1982 and subsequent years;

(4) the phase-out over the next three years of the National Health Service Corps scholarship program, currently funded to provide over 6,000 assignees in 1987, to reflect the fact that the NHSC will be capable of recruiting sufficient volunteers during the late 1980's to meet its needs;

(5) revision of the scholarship program's independent practice option to make it more attractive and to provide a partial subsidy for individuals choosing this option;

(6) provisions which allow the Secretary of HHS substantially greater flexibility in dealing with the surfeit of scholarship recipients who will be available for service over the next 5 years.

The National Health Service Corp has often been looked upon as an educational tool rather than as a health services delivery program. As a consequence, the program has been planned and developed without regard for the most notable fact of the health care delivery system in 1980's: that we will have by mid-decade a substantial surplus of physicians and that the resulting competitive forces are already pushing doctors into areas where they have not previously been available. Undoubtedly there will be some areas for which no increased amount of competition in the health care delivery system will provide a readily accessible doctor in the near future. It is for this reason that the Corps, while undergoing substantial modification and reorientation under the Committee's bill, will nonetheless continue to grow slightly from its 1980 level of 2000 to about 2500 and will probably stay at that increased level at least through the mid-1980's.

In contrast, at testimony provided before this Committee on September 24, 1980, the Department of Health and Human Services, using then-current Department policy, projected a 1990 NHSC field strength of 9000. In the face of a physician surplus within this decade and evidence of improving geographic distribution, the Committee believes the need for the NHSC as an incentive to encourage health professionals to practice in underserved areas no longer commands this level of commitment. The Committee believes that physicians and other health practitioners, influenced by competitive market forces, on their own initiative, will increasingly move into currently underserved areas. A reasonable approximation of the residual need that should be met through the Corps, in the Committee's view, is a field strength of 2500.

In coming to this conclusion the Committee notes the testimony provided at both the September 24, 1980 NHSC oversight hearing and the April 8, 1981 hearing on S. 801, as well as recent studies and anecdotal data. All provide substantial evidence of increased physician supply, improved (and improving) geographic dispersion and the reality of competition among providers.

Several recent studies indicate that these trends have already begun to occur. In September 1980, the DHS-chartered Graduate Medical Education National Advisory Committee (GMENAC) issued its finding on the supply and requirement for physicians in the 1990s. GMENAC has estimated that by 1990 there will be a surplus of 70,000 physicians in the country, and by the year 2000 this surplus will increase to 145,000. GMENAC also found that

there will be shortages of physicians in only 7 specialties. These do *not* include primary care specialties such as general internal medicine or family medicine, both of which GMENAC predicted would have surpluses in 1990. In another study, DHHS has estimated that in 1990, there will be approximately 24,000 more physicians than needed. Still other studies show that physician specialists provide substantial amounts of primary care and that only an infinitesimal number of Americans have no access to health care.

A Rand Corporation study on the changing geographic distribution of the board-certified physicians in the country between 1960 and 1977 was published in the New England Journal of Medicine in October 1980. This study found that in 1977, more than 70 percent of communities with 20,000 to 30,000 inhabitants had a full complement of 5 specialties; that is, at least one representative from each of internal medicine, surgery, pediatrics, obstetrics/gynecology, and radiology. In 1960, less than a third of these communities had all five. In the next larger groups of towns, 30,000 to 50,000, the proportion of these communities with a full complement of 5 specialties increased from 50 percent in 1960 to 95 percent in 1977. Recently, the Committee received testimony from the authors of this study about their further research on geographic distribution which has reinforced the findings of their published study.

Additional testimony presented during hearings on this legislation cited that communities in every county size grouping have gained physicians relative to population. The largest relative gains have been made by the smaller metropolitan communities, with the smallest increases occurring in the smallest counties, particularly those with fewer than 25,000 people, and in the very largest, most populous counties. Thus, there has been a diffusion of physicians from the largest to smaller sized counties. The testimony also indicated that during the 1970's there were no dramatic changes in the relative incomes of physicians in different sized communities, perpetuating the disparity that non-metropolitan physicians earn more than urban physicians.

Further evidence of change can be derived from a recent DHHS working paper (DHPA Report No. 81-17) called "Implications of the Projected Doctor Surplus: Summary of Important Findings from Four Recent Studies." This working paper states:

> The number of active physicians in the United States is expected to increase by roughly 150,000 or 36 percent during the period 1979-90. During the same period, physician density will increase from 185.1 to 277.3 physicians per 100,000 population (U.S. Department of Health and Human Services, 1980). The implications of this expanded supply of physicians for the access to health care, for the geographic distribution of general practitioners and for health care costs were the subjects of four recent studies conducted by the division of Health Professions Analysis (DHPA).
>
> The first summary presents results from a study by Professor James B. Ramsey of New York University, entitled "A Re-Evaluation of Supply and demand Concepts in Physician Care" (Contract No. HRA 232-79-0068). Ramsey attempts to replicate the findings from four past studies of physician behavior, three of which gave rise to various

"supplier-induced-demand" concepts. Each data set was subjected to a battery of sophisticated specification error tests which are designed to test for reliability of econometric models. Ramsey concludes that none of the studies support the "supplier-induced-demand" theory. Instead, the results support the orthodox demand-supply model.

The second study summarized is a study by Dr. Donald R. House, Resources Research Corporation, entitled "The Study of the Effect of Physician Supply on the Supply, Mix and Cost of Health Services" (Contract No. HRA 232-79-0101). House demonstrates that the "supplier-induced-demand" model which he terms the "demand creation" model rests on a relatively weak theoretical foundtion. If the demand creation model is formally specified, its empirical predictions are indistinguishable from those of the orthodox demand-supply model. Therefore, the demand-supply model is adequate for forecasting the effects of an increasing stock of physicians.

The third summary presents results from an in-house study by Dr. L. Jackson Brown and Jack Reid entitled "Are the Manpower Markets for General Practitioners Working? Implications of New Evidence for Geographic Distribution" (DHPA Report No. 81-13). Brown and Reid's research results show that market forces are allocating general practitioners across counties. They conclude that the typical market for GP's is in disequalibrium, and new GP's are being distributed into markets as a result of demand shifts. One important implication of their research is that the placement of National Health Service Corps physicians in local markets is a destablizing factor in these markets.

The final summary presents forecasts from an in-house study by Dr. Jack Rodgers entitled "Long-Run Forecasts of Physician and Hospital Prices and Expenditures" (DHPA Report No. 81-5). Rodgers uses an orthodox demand-supply model to forecast health care prices and expenditures. The model forecasts that increases in the supply of physicians during 1975-1990 will eventually lead to a decline in the real price of physician services and an increase in the price of hospital services.

While the future is not entirely clear nor the current evidence all optimistic and the Committee does expect to reexamine these issues at appropriate intervals, nonetheless the Committee is impressed by the growing evidence, analytic and anecdotal, that increased physician supply is having the expected "demand-supply model" result: improved geographic distribution and increased price and service competition. Therefore, the Committee believes that the substantial growth planned for the Corps is now unnecessary. Because there may well be some areas for which no increased amount of competition in the health care delivery system will provide a readily accessible doctor, the Committee bill does retain the Corps but limits its growth from 2,060 in 1981, to a level of 2,500 assignees in 1982 and subsequent years. The Committee's bill would immediately reduce the Corps pipeline by allowing scholar-

ship awards only to those who have received them in previous years.

The Committee believes that this reorientation of the Corps should be more than just an adjustment of numbers because of the impending surplus. It is the Committee's opinion that the current health manpower shortage area designation process is not targeted toward the most needy communities. Testimony presented at recent hearings cited studies by the Robert Wood Johnson Foundation which suggest that 12–15 million people are structurally underserved. This is considerable less than the over 40 million people estimated to reside in currently designated shortage and underserved areas. To remedy this situation and to assure that Corps placements serve the most needy communities, the Committee bill makes basic changes in the designation definition and procedures.

In response to these concerns, the Committee bill changes the definition of health manpower shortage area to assure that the Secretary of HHS, in making such designations, takes account of: reasonable access to nearby adequately served areas; indicators of unmet demand for health services by individuals in the area; indicators of the likelihood that unmet demand will be met within 2 years even if the area is not designated; the willingness of groups within the community to support and properly utilize Corps personnel; and the comments of appropriate agencies, including medical and professional societies and State and local planning agencies. To a greater extent than under current procedures, this information would be required to be provided to the Secretary prior to designation of an area and placement of personnel. While "population groups" and individual health care facilities could no longer be designated a "health manpower shortage area", the needs of such groups or facilities may weigh substantially in the decision to designate a geographic area as a HMSA.

The Committee has also become concerned that the goal of the Corps is no longer to permanently place individuals in underserved areas who will remain in private practice after their Corps obligation is completed. This is admittedly a difficult objective when Corps placements are in fact made to the most needy communities, but the Committee intends that this philosophy be emphasized to the maximun extent consistent with placing those salaried Corps members in the neediest communities. In response to this general concern, the Committee bill renames the "private practice option", the "independent practice option", and strengthens it to allow the Secretary more flexibility in encouraging individuals to serve, at their own financial risk, in underserved areas during their obligated period. The Committee is aware that, to some extent, the success of this option depends on easing the placement strategy of serving priority one and two HMSA's first. As long as the emphasis for placing the 2500 salaried members of NHSC remains on these priority areas, it is acceptable to the Committee that a more broad-based range of HMSA's receive individuals under the independent practice option. A new provision under the independent practice option allows the Secretary to pay the malpractice insurance and a partial income supplement to individuals who chooose this option. Such payments are still a considerable savings over having these individuals serve on the Federal payroll. The independent practice option also provides greater incentives for service-obligated individ-

uals to develop good relationships with the community they serve and to stay in that community for longer periods of time.

The Committee bill also allows the Secretary, upon a finding that the services of the individual will not be needed in a health manpower shortage area (as defined in Section 332), to enter into negotiation with past scholarship recipients to convert their service obligation, at the Secretary's discretion, into a low interest loan. The Committee reconizes that this is a necessary cost saving provision, if the Federal Government is to avoid unnecessarily spending hundreds of millions of dollars on the salaries of physicians who would be serving communities that are able to attract a physician on their own or for which health services are reasonably accessible in adjacent areas.

Finally, the Committee is concerned that the NHSC not compete unfairly with the burgeoning number of health care providers. This is especially important because of an apparent contradiction: that the placement of a federally-salaried National Health Service Corps physician in a community is often an impediment rather than an asset in a community's long term struggle to find a permanent doctor. The reason is that a private physician moving into a community cannot hope to compete with a physician whose fees may not cover salary and other expenses. Changing the definition of HMSA and requiring more careful targeting of NHSC placements will minimize this problem, as will increased use of the independent practice option. In addition the Committee bill directs NHSC health care services to be provided "in a manner which is cooperative with, and not competitive with, other health care providers serving such health manpower shortage area."

V. Votes in Committee

Pursuant to Section 133(b) of the Legislative Reorganization Act of 1946, the following is a tabulation of votes cast in Committee on S. 801.

S. 801 was considered in open executive session on May 6, 1981 by the Committee on Labor and Human Resources.

Mr. Kennedy moved the adoption of an amendment which would permit the Department of Health and Human Services to offer new National Health Service Corps scholarships in fiscal years 1982, 1983, and 1984 by providing authorizations of $45,873,000 for the fiscal year ending September 30, 1982, $47,873,000 for the fiscal year ending September 30, 1983, and $49,873,000 for the fiscal year ending September 30, 1984. The motion was defeated by a tie vote of 8 to 8, as follows:

YEAS	NAYS
Kennedy	Hatch
Randolph	Stafford
Williams	Quayle
Pell	Hawkins
Eagleton	Nickles
Riegle	Humphrey
Metzenbaum	Denton
Weicker	East

Senator Kennedy also moved the adoption of an amendment entitled "Secretary's Determination to Convert Scholarships" which

would require the Secretary to determine that the services of an individual would not be needed in a health manpower shortage (as defined in section 332) before converting any scholarship contract into a loan agreement. The motion was adopted by voice vote.

Senator Hatch moved that S. 801, as amended and containing a variety of additional technical amendments, be reported to the Senate. The motion carried by a vote of 16 to 0 as follows:

YEAS	NAYS
Hatch	None.
Stafford	
Quayle	
Hawkins	
Nickles	
Weicker	
Humphrey	
Denton	
East	
Kennedy	
Randolph	
Williams	
Pell	
Eagleton	
Riegle	
Metzenbaum	

VI. Cost Estimate

Congressional Budget Office,
U.S. Congress,
Washington, D.C., May 15, 1981.

Hon. Orrin G. Hatch,
Chairman, Senate Committee on Labor and Human Resources,
U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for S. 801, a bill to amend the Public Health Service Act to revise provisions relating to the National Health Service Corps.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

James L. Blum,
(For Alice M. Rivlin, Director).

Congressional Budget Office—Cost Estimate

May 15, 1981.

1. Bill number: S. 801.
2. Bill title: A bill to amend the Public Health Service Act to revise provisions relating to the National Health Service Corps.
3. Bill status: As ordered by the Senate Committee on Labor and Human Resources on May 6, 1981.
4. Bill purpose: This bill would extend for three years the authorizations for most of the National Health Service Corps Programs established by the Public Health Service Act. The bill would

also authorize continuing scholarships to students who have received an award before October 1, 1981.

5. Cost estimate:

[By fiscal years, in millions of dollars]

	1982	1983	1984	1985	1986
Authorization levels:					
National Health Service Corps programs (338a)	99	110	120		
National Health Service Corps scholarship programs (756 redesignated as 338F)			12		
Total authorization levels	99	110	132		
Estimated outlays:					
National Health Service Corps programs (338a)	52	91	111	55	17
National Health Service Corps scholarship programs (756 redesignated as 338F)			8	3	1
Total estimated outlays	52	91	117	59	18

The costs of this bill fall within function 550.

6. Basis for estimate: The authorization levels for the National Health Service Corps Programs are stated in the bill. The unspecified amounts for the scholarship programs have been estimated by CBO.

Under the continuing resolution, $16 million has been appropriated for new loans in 1981 in the National Health Service Corps Scholarship Programs. The bill will provide such sums as necessary to ensure that students who are awarded new scholarships in 1981 will be able to receive continuing scholarships in 1984. Based on information from the Department of Health and Human Services, it is estimated that $12 million will be necessary for those scholarships in 1984. Funds for continuing awards in 1982 and 1983 are authorized under current law.

Authorized amounts are assumed to be fully appropriated at the beginning of each fiscal year. Outlays are estimated using spendout rates computed by CBO on the basis of appropriate recent program data.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Hinda Ripps.

10. Estimate approved by:

James L. Blum,
Assistant Director
for Budget Analysis.

VII. Regulatory Impact Statement

Pursuant to Section 602 of Senate Resolution 4 concerning the regulatory impact of proposed legislation, the Committee provides the following evaluation of the anticipated additional paperwork and other regulatory impact that would result from the implementation of S. 801, which revises and extends the National Health Service Corps service and scholarship programs. In general, this bill does not have any intended regulatory impact.

(A) *Estimated number of individuals and businesses regulated by group or class.*—No new classification of individuals or businesses

in the private sector would become subject to regulation as a result of this legislation.

(B) *Economic impact of such regulation on individuals or businesses.*—None.

(C) *Additional paperwork, time and cost.*—It is not anticipated that implementation of this legislation will impose any additional paperwork, time or cost upon the private sector. However, additional opportunities are afforded to appropriate public and non-private entities (including medical and professional societies, state and local health planning agencies) to review and comment upon applications for designation of health manpower shortage areas and placement of National Health Service Corp personnel.

VIII. Section-by-Section Analysis

Section I cites the Act as the "National Health Service Corps Amendments of 1981". It also states that references to amendments to or repeal of the section or other provision are to the Public Health Service Act (PHS Act).

Section 2(a). Amends section 331(b) of the PHS Act to make recruitment programs for the Corps and scholarship programs an optional rather than mandatory function of the Secretary and permit individuals considering the individual practice option to be reimbursed for one trip to evaluate a practice site

Section 2(b). Amends section 331(d)(1) to make pay adjustments for Corps members optional rather than mandatory upon the Secretary.

Section 2(c). Repeals a provision that restricts the application of sections 214 and 216 of the PHS Act to members of the National Health Service Corps during their period of obligated service under the scholarship program and repeals a requirement that the administrative unit which administers Section 770 of the Public Health Service Act have certain responsibilities for the development of the National Health Service Corp program.

Section 2(d). Makes technical and conforming changes.

Section 3(a). Amends Section 332(a) to define the term "health manpower shortage area" to include an area in an urban or rural area which need not conform to geographic boundaries of a political subdivision, is a rational area for the delivery of health services, the Secretary determines has a health manpower shortage, and is not reasonably accessible to an adequately served area.

Section 3(b). Amends Section 332(b) to require the promulgation by October 1, 1981 of new criteria for the designation of health manpower shortage areas. In establishing such criteria the Secretary shall consider the following: health manpower ratios, special needs of facilities and populations, infant mortality, access to health services, health status, indicators of an unmet demand for health services and the likelihood that the area would become adequately served within two years without being designated.

Subsection 3(c). Repeals existing section 332(c) which sets out considerations the Secretary should utilize in determining whether to make a designation of a health manpower shortage area.

Section 3(d). Redesignates section 332(d) as 332(c) and changes the requirement such that by January 1, 1982 the Secretary must

designate health manpower shortage areas utilizing prescribed definitions and criteria.

Section 3(e). Repeals certain provisions dealing with the designation as a "health manpower shortage area" of a public facility.

Section 3(f). Requires the Secretary to give written notice of a proposed designation of the health manpower shortage area at least 60 days before the date of such designation and amends certain provisions concerning which organizations and agencies are required to be notified prior to designation.

Section 3(h). Makes optional the previously mandatory requirement upon the Secretary to conduct information programs in health manpower shortage areas.

Section 4(a). Amends section 333(a) to require the Secretary, before assigning an individual to a health manpower shortage area, to undertake certain assessments of need and demand for the assignment.

Section 4(b). Section 333(b) is amended to require the Secretary, before assigning a Corps member to a health manpower shortage area, to allow appropriate public or non-profit private entities (including medical and professional societies and state and local health planning agencies) to review the application and submit comments on the proposed assignment.

Section 4(c). Revises the provisions in section 333(c) to require the Secretary in assigning Corps personnel to give priority to areas with the greatest need and to give consideration to the willingness of individuals in the local community to assist in cooperating with the Corps. Other considerations previously included in this subsection are eliminated.

Section 4(d). Makes a conforming change to section 333(d).

Section 4(e). Amends existing law to make optional a previously mandated requirement of the Secretary to provide technical assistance to certain entities involved in health manpower shortage areas and the corps.

Section 4(f). Repeals provisions requiring studies of the methods of assignment of Corps members to health manpower shortage area.

Section 4(g). Makes a conforming change.

Section 5(a). Repeals section 334(b)(2) which allowed the Secretary to waive certain repayments to the federal government solely on the basis of the percentage of elderly, poor or other characteristics of individuals located in the service area of a Corps placement. Other provisions allowing waiver of such repayment are not affected.

Section 5(b). Continues existing provisions allowing patients to be charged reduced rates, but eliminates any referance to allowing service "without charge".

Section 5(c). Makes a conforming change.

Section 6(a). Requires Corps members to deliver health care services in a manner which is cooperative with and not competitive with other health care providers serving such health manpower shortage area.

Section 6(b). Eliminates continuing education from a list of functions for which the Secretary may loan money to an entity that has accepted Corps placement.

Section 7. Repeals existing section 336 which requires the Secretary to submit an annual report to Congress on May 1st of each year with regard to various aspects of the National Health Service Corps.

Section 8. Revises section 337 dealing with the National Advisory Council on the National Health Service Corps by: eliminating existing provisions prescribing the backgrounds of individuals who will serve on the advisory council, eliminating restrictions on the ability of providers of health care to serve on the council, and requiring that members not be eligible for reappointment to the council on the expiration of their terms.

Section 9 authorizes the National Health Service Corps service program at the level of $99 million for the fiscal year ending September 30, 1982; $110 million for the fiscal year ending September 30, 1983 and $120 million for the fiscal year ending September 30, 1984.

Section 10(a). Transfers the National Health Service Corps scholarship program from title VII of the Public Health Service Act to Title III of the Public Health Service Act by redesignating Sections 751, 752, 753, 754, 755, 756, and 757 as 338A, 338B, 338C, 338D, 338E, 338F, and 338G, respectively.

Section 10(b). Makes conforming changes made necessary by the transfer of the scholarship program to title III, relieves the Secretary of certain reporting requirements concerning the National Health Service Corps scholarship program and eliminates a requirement that the administrative unit which administers section 770 of the PHS Act shall participate in certain aspects of the scholarship program.

Section 10(c). Makes conforming changes.

Section 10(d). Amends the heading of section 338C (as redesignated) to read "Independent Practice". Amends this section to authorize, rather than require, the Secretary to release an individual from a service obligation upon the individual's application for such release in order to enter, to the extent permitted by, and consistent with applicable state law, the independent practice of the individual's profession in a health manpower shortage area. Requires individuals meeting their service obligations under the section and providing health care services covered by part A or part B of title XVIII of the Social Security Act to accept assignment and to accept a reasonable charge as payment in full. Requires periodic reports of such individuals. Requires the Secretary to provide technical assistance to each individual released from service obligation under this section. Specifies that failure to meet the terms of the agreements under this section will be considered a breach of the scholarship contract as provided in section 338D, and requires the Secretary, from appropriations authorized under section 338, to pay malpractice insurance costs for individuals in independent practice under this section and to pay the lesser of a decreasing sum of money or an amount determined by subtracting such individual's net income before taxes from the income the individual would have received as a member of the Corps for each such year of obligated service.

Section 10(e). Eliminates a $1500 penalty for individuals who fail to accept a scholarship award after it has been made and modifies

certain other penalty provisions to assure that individuals are not unfairly penalized.

Section 10(f). Revises an existing grant program to create a new program of special loans for former Corps members to enter private practice, directs the money to provide such loans may come out of the appropriation authorized under section 338, and places limitations on the amount of money and purposes for which it may be utilized. Interest rates and repayment terms for such loans shall be set by the Secretary by regulation.

Section 10(g). Phases the National Health Service Corps scholarship program out over the three fiscal years succeeding fiscal year 1981. During this time period, scholarship awards can be made only to students who have entered into written contracts under the scholarship program before October 1, 1980. Notwithstanding any other provision of this subpart, the Secretary is directed not to enter into any new or continued scholarship contracts after September 30, 1981 unless such contract provides that, at the Secretary's option, the contract may be converted into a loan agreement under which the individual is relieved of a service obligation and becomes liable for repayment, at 7 percent simple interest from the date of disbursement, of all sums provided to such individuals by the federal government under such contract. Permits the Secretary to negotiate with individuals for the modification of any scholarship contract entered into under the subpart prior to October 1, 1981 to include the same provisions. The Secretary is directed to set reasonable terms for the period of the loan and the date upon which repayment begins. The Secretary may negotiate interest rates and repayment terms more favorable to such individuals conditioned upon their establishment of an independent practice in a health manpower shortage area (designated under section 332). Before converting any scholarship contract into a loan agreement under this section, the Secretary must make a determination that the services of the individual will not be needed in a health manpower shortage area (as defined in section 332).

Section 11. Establishes a new section 338H which provides that the Secretary may enter into contracts only to such extent or in such amount as are provided in appropriations Acts.

IX. Changes in Existing Law

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in the existing law made by the bill as reported are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no changes are proposed is shown in roman):

Subpart II—National Health Service Corps Program

NATIONAL HEALTH SERVICE CORPS

Sec. 331. (a) There is established, within the service, the National Health Service Corps (hereinafter in this subpart referred to as the "Corps") which (1) shall consist of such officers of the Regular and Reserve Corps of the service and such civilian personnel as the secretary may desigate (such officers and personnel hereinafter in this

subpart referred to as "Corps members") and (2) shall be utilized by the Secretary to improve the delivery of health services in health manpower shortage areas as defined in section 332(a).

(b) The Secretary [shall] *may* conduct at schools of medicine, osteopathy, dentistry, and, as appropriate, nursing and other schools of the health professions and at entities which train allied health personnel, recruiting programs for the Corps [and the Scholarship Program.]

(c) The Secretary may reimburse applicants for positions in the Corps (*including individuals considering entering into a written agreement pursuant to section 333c*) for actual and reasonable expenses incurred in traveling to and from their places of residence to a health manpower shortage area (designated under section 332) in which they may be assigned for the purpose of evaluating such area with regard to being assigned in such area. The Secretary shall not reimburse an applicant for more than one such trip.

(d)(1) The Secretary may, under regulations promulgated by the Secretary, adjust the monthly pay of each member of the Corps who is directly engaged in the delivery of health services in a health manpower shortage area as follows:

(A) During the first 36 months in which such a member is so engaged in the delivery of health services, his monthly pay [shall] *may* be increased by an amount (not to exceed $1,000) which when added to the member's monthly pay and allowances will provide a monthly income competitive with the average monthly income from a practice of an individual who is a member of the profession of the Corps member, who has equivalent training, and who has been in practice for a period equivalent to the period during which the Corps member has been in practice.

(B) During the period beginning upon the expiration of the 36 months referred to in subparagraph (A) and ending with the month in which the member's monthly pay and allowances are equal to or exceed the monthly income he received for the last of such 36 months, the member [shall] *may* receive in addition to his monthly pay and allowances an amount which when added to such monthly pay and allowances equals the monthly income he received for such last month.

(C) For each month in which a member is directly engaged in the delivery of health services in a health manpower shortage area in accordance with an agreement with the Secretary entered into under section 741(f)(1)(C), under which the Secretary is obligated to make payments in accordance with section 741(f)(2), the amount of any monthly increase under subparagraph (A) or (B) with respect to such member shall be decreased by an amount equal to one-twelfth of the amount which the Secretary is obligated to pay upon the completion of the year of practice in which such month occurs.

For purposes of subparagraphs (A) and (B), the term "monthly pay" includes special pay received under chapter 5 of title 37 of the United States Code.

(2) In the case of a member of the Corps who is directly engaged in the delivery of health services in a health manpower shortage area in accordance with a service obligation incurred under the Scholarship Program, the adjustment in pay authorized by para-

graph (1) may be made for such a member only upon satisfactory completion of such service obligation, and the first 36 months of such member's being so engaged in the delivery of health services shall, for purposes of paragraph (1)(A), be deemed to begin upon such satisfactory completion.

(e) Corps members assigned under section 333 to provide health services in health manpower shortage areas shall not be counted against any employment ceiling affecting the Department.

[(f) Sections 214 and 216 shall not apply to members of the National Health Service Corps during their period of obligated service under the Scholarship Program.]

[(g) The administrative unit which administers section 770—

(1) shall participate in the development of regulations, guidelines, funding priorities, and application forms, and

(2) shall be consulted by, and may make recommendations to, the Secretary in the review of applications and proposals for, and the awarding of, grants and contracts,

with respect to the Corps.]

(f) [(h)] For the purposes of this subpart:

(1) The term "Department" means the Department of [Health, Education, and Welfare.] *Health and Human Services.*

(2) The term "Scholarship Program" means the National Health Service Corps Scholarship Program established under [section 751] *section 338A.*

(3) The term "State" includes, in addition to the several States, only the District of Columbia, the Commonwealth of Puerto Rico, the *Commonwealth of the* Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

DESIGNATION OF HEALTH MANPOWER SHORTAGE AREAS

SEC. 332. [(a)(1) For purposes of this subpart the term "health manpower shortage area" means (A) an area in an urban or rural area (which need not conform to the geographic boundaries of a political subdivision and which is a rational area for the delivery of health services) which the Secretary determines has a health manpower shortage, (B) a population group which the Secretary determines has such a shortage, or (C) a public or nonprofit private medical facility or other public facility which the Secretary determines has such a shortage.

[(2) For purposes of this subsection, the term "medical facility" means a facility for the delivery of health services and includes—

[(A) a hospital, State mental hospital, public health center, outpatient medical facility, rehabilitation facility, facility for long-term care, community mental health center, migrant health center, and community health center;

[(B) such a facility of a State correctional institution or of the Indian Health Service;

[(C) such a facility used in connection with the delivery of health services under sections 321 (relating to hospitals), 322 (relating to care and treatment of seamen and others), 323 (relating to care and treatment of Federal prisoners), 324 (relating to examination and treatment of aliens), or 326 (relating to

services to certain Federal employees), or section 320 (relating to services for persons with Hansen's disease), and

[(D) a Federal medical facility.]

(a) For purposes of this subpart, the term "health manpower shortage area" means an area in an urban or rural area which—

(1) need not conform to the geographic boundaries of a political subdivision;

(2) is a rational area for the delivery of health services;

(3) the Secretary determines has a health manpower shortage; and

(4) is not reasonably accessible to an adequately served area.

[(b) The Secretary shall establish by regulation, promulgated not later than May 1, 1977, criteria for the designation of areas, population groups, medical facilities, and other public facilities, in the States, as health manpower shortage areas. In establishing such criteria, the Secretary shall take into consideration the following:

[(1) The ratio of available health manpower to the number of individuals in an area or population group, or served by a medical facility or other public facility under consideration of designation.

[(2) Indicators of a need, notwithstanding the supply of health manpower, for health services for the individuals in an area or population group or served by a medical facility or other public facility under consideration for designation, with special consideration to indicators of—

[(A) infant mortality,

[(B) access to health services, and

[(C) health status.

[(3) The percentage of physicians serving an area, population group, medical facility, or other public facility under consideration for designation who are employed by hospitals and who are graduates of foreign medical schools.]

(b) The Secretary shall establish by regulation, promulgated not later than October 1, 1981, criteria for the designation of areas in the States as health manpower shortage areas. In establishing such criteria, the Secretary shall take into consideration the following:

(1) The ratio of available health manpower to the number of individuals in an area under consideration for designation.

(2) Indicators of a need for health services for the individuals in an area under consideration for designation, including indicators of special needs of facilities and populations within the area and indicators of—

(A) infant mortality,

(B) access to health services, and

(C) health status.

(3) Indicators of an unmet demand for health services by individuals in an area and indicators of the likelihood that such demand will be met within two years after the area is considered for designation as a health manpower shortage area if the area is not so designated.

[(c) In determining whether to make a designation, the Secretary shall take into consideration the following:

[(1)(A) The recommendations of each health systems agency (designated under section 1515) for a health service area which includes all or any part of the area, population group, medical

facility, or other public facility under consideration for designation.

[(B) The recommendations of the State health planning and development agency (designated under section 1521) if such area, population group, medical facility, or other public facility is within a health service area for which no health systems agency has been designated.

[(2) The recommendations of the Governor of each State in which the area, population group, medical facility, or other public facility under consideration for designation is in whole or part located.

[(3) The extent to which individuals who are (A) residents of the area, members of the population group, or patients in the medical facility or other public facility under consideration for designation, and (B) entitled to have payment made for medical services under title XVIII or XIX of the Social Security Act, cannot obtain such services because of suspension of physicians from the programs under such titles.]

[(d)] *(c)* In accordance with the criteria established under subsection (b) [and the considerations listed in subsection (c)] the Secretary shall designate, not later than [November 1, 1977] *January 1, 1982* health manpower shortage areas in the States, publish a descriptive list of the areas [population groups, medical facilities, and other public facilities] so designated, and at least annually review and, as necessary, revise such designations.

[(e) Prior to the designation of a public facility, including a Federal medical facility, as a health manpower shortage area, the Secretary shall give written notice of such proposed designation to the chief administrative officer of such facility and request comments within 30 days with respect to such designation.]

[(f)] *(d)* The Secretary shall give written notice of the *proposed* designation of a health manpower shortage area, not later than 60 days [from the date] *before the date* of such designation, to—

(1) the Governor of each State in which the [area, population group, medical facility, or other public facility so] *area to be* designated is in whole or part located; *and*

[(2)(A) each health systems agency (designated under section 1515) for a health service area which includes all or any part of the area, population group, medical facility, or other public facility so designated; or

[(B) the State health planning and development agency of the State (designated under section 1521) if there is a part of such area, population group, medical facility, or other public facility within a health service area for which no health systems agency has been designated; and]

[(3)] *(2)* appropriate public or nonprofit private entities *(including medical and professional societies and State and local health planning agencies)* which are located or which have a demonstrated interest in the area [so] *to be* designated.

[(g) Any person may recommend to the Secretary the designation of an area, population group, medical facility, or other public facility as a health manpower shortage area.]

[(h)] *(e)* The Secretary [shall] *may* conduct such information programs in [areas, among population groups, and in medical facilities and other public facilities designated under this section

as] health manpower shortage areas as may be necessary to inform public and nonprofit private entities which are located or have a demonstrated interest in such areas of the assistance available under this title by virtue of the designation of such areas.

ASSIGNMENT OF CORPS PERSONNEL

SEC. 333. (a)(1) The Secretary may assign members of the Corps to provide, under regulations promulgated by the Secretary, health services in or to a health manpower shortage area during the assignment period (specified in the agreement described in section 334) only if—

(A) a public or nonprofit private entity, which is located or has a demonstrated interest in such area, makes application to the Secretary for such assignment;

(B) such application has been approved by the Secretary;

(C) an agreement has been entered into between the entity which has applied and the Secretary, in accordance with section 334; and

(D) [in the case of an application made by an entity which has previously been assigned a Corps member for a health manpower shortage area under an agreement (entered into under section 334 or under section 329 as in effect before October 1, 1977) which has expired,] the Secretary has (i) conducted an evaluation of the [continued need] *need and demand* for health manpower for the area, the *intended* use of Corps members [previously] *to be* assigned to the area, community support for the assignment of Corps members to the area, the area's efforts to secure health manpower for the area, and [fiscal management by the entity with respect to Corps members previously assigned] *the fiscal management capability of the entity to which Corps members would be assigned* and (ii) on the basis of such evaluation has determined that—

(I) there is a [continued need] *need and demand* for health manpower for the area;

(II) there [has been] *will be* appropriate and efficient use of Corps members [previously] assigned to the entity for the area;

(III) there is general community support for the assignment of Corps members to the entity;

(IV) the area has made [continued] *unsuccessful* efforts to secure health manpower for the area; and

(V) there [has been] *is a reasonable prospect of* sound fiscal management, including efficient collection of fee-for-service, third-party, and other appropriate funds, by the entity with respect to Corps members [previously] assigned to such entity.

(2) Corps members may be assigned to a Federal health care facility, but only upon the request of the head of the department or agency of which such facility is a part.

[(b) the Secretary may not approve an application under this section for assignment of a Corps member to a health manpower shortage area unless the Secretary has afforded—]

[(1) each health systems agency (designated under section 1515) for a health service area which included all or part of the

area in which the area, population group, medical facility, or other public facility so designated is located, or]

[(2) if there is a part of such area, population group, medical facility, or other public facility located within a health service area for which no health systems agency has been designated, the State health planning and development agency (designated under section 1521) of the State in which such part is located, an opportunity to review the application and submit to the Secretary its comments respecting the need for, and proposed use of, the Corps member requested in the application.]

(b) The Secretary may not approve an application under this section for assignment of a Corps member to a health manpower shortage area unless the Secretary has afforded appropriate public or nonprofit private entities (including medical and professional societies and State and local health planning agencies) which are located or which have a demonstrated interest in the area so designated an opportunity to review the application and submit to the Secretary its comments respecting the need for, and proposed use of, the Corps member requested in the application.

(c) In considering, and giving approval to, applications made under this section for the assignment of Corps members, the Secretary shall—

(1) give priority to an application which provides for the assignment of Corps members to an area [population group, medical facility, or other public facility] with the greatest health manpower shortage, as determined under criteria established under section 332(b); *and*

[(2) give special consideration to an application which provides for the use of physician assistants, nurse practitioners, or expanded function dental auxiliaries;]

[(3)]*(2)* take into consideration the willingness of individuals in the area [or population group, or at the medical facility or other public facility,] and of the appropriate governmental agencies or health entities, to assist and cooperate with the Corps in providing effective health services [and].

[(4) take into consideration comments of medical, osteopathic, dental, or other health professional societies serving the area, population group, medical facility, or other public facility, or, if no such societies exist, comments of physicians, dentists, or other health professionals serving the area, population group, medical facility, or other public facility.]

(d) The Secretary shall assign Corps members to entities in health manpower shortage areas without regard to the ability of the individuals in such areas [population groups, medical facilities, or other public facilities to pay for such services.]

(e) In making the assignment of a Corps member to an entity in a health manpower shortage area which has had an application approved under this section, the Secretary shall seek to assign to an area a Corps member who has (and whose spouse, if any, has) those characteristics which are characteristics which increase the probability of the member's remaining to serve the area upon completion of his assignment period.

(f)(1) The Secretary [shall] *may* provide technical assistance to a public or nonprofit private entity which is located [or has a demonstrated interest] in a health manpower shortage area and which

desires to make an application under this section for assignment of a Corps member to such area.

(2) The Secretary [shall] *may* provide, to public and nonprofit private entities which are located [or have a demonstrated interest] in a health manpower shortage area to which area a Corps member has been assigned, technical assistance to assist in the retention of such member in such area after the completion of such member's assignment to the area.

(3) The Secretary [shall] *may* provide, to health manpower shortage areas to which no Corps member has been assigned, (A) technical assistance to assist in the recruitment of health manpower for such areas, and (B) current information on public and private programs which provide assistance in the securing of health manpower.

[(g) The Secretary shall conduct, or enter into contracts for the conduct of, studies of the methods of assignments of Corps members to health manpower shortage areas. Such studies shall include studies of—

[(1) the characteristics of physicians, dentists, and other health professionals who are more likely to remain in practice in health manpower shortage areas;

[(2) the characteristics, including utilization and reimbursement patterns, of areas which have been able to retain health manpower personnel; and

[(3) the appropriate conditions for the assignment and use of nurse practitioners, physician assistants, and expanded function dental auxiliaries in health manpower shortage areas.

[(h)] *(g)* Notwithstanding any other law, any member of the Corps licensed to practice medicine, osteopathy, or dentistry *or any other health profession* in any State shall, while serving in the Corps, be allowed to practice such profession in any State.

COST SHARING

SEC. 334. (a) The Secretary shall require, as a condition to the approval of an application under section 333, that the entity which submitted the application enter into an agreement for a specific assignment period (not to exceed 4 years) with the Secretary under which—

(1) the entity shall be responsible for charging, in accordance with subsection (d), for health services provided by Corps members assigned to the entity;

(2) the entity shall take such action as may be reasonable for the collection of payments for such health services, including, if a Federal agency, an agency of a State or local government, or other third party would be responsible for all or part of the cost of such health services if it had not been provided by Corps members under this subpart, the collection, on a fee-for-service or other basis, from such agency or third party, the portion of such cost for which it would be so responsible (and in determining the amount of such cost which such agency or third party would be responsible, the health services provided by Corps members shall be considered as being provided by private practitioners);

(3) the entity shall pay to the United States, as prescribed by the Secretary in each calendar quarter (or other period as may be specified in the agreement) during which any Corps member is assigned to such entity, the sum of—

(A) the portion of the salary (including amounts paid in accordance with section 331(d)) and allowances of any Corps member received by such member during such calendar quarter (or other period) while such member was assigned to such entity;

(B) for any Corps member assigned to such entity, an amount which bears the same ratio to the amount paid under the Scholarship Program to or on the behalf of such Corps member as the number of days of obligated service, provided by such member during such quarter (or other period) bears to the number of days in his period of obligated service under such Program; and

(C) if such entity received a loan under section 335(c), an amount which bears the same ratio to the amount of such loan as the number of days in such quarter (or other period) during which any Corps members were assigned to the entity bears to the number of days in the assignment period after such entity received such loan; and

(4) the entity shall prepare and submit to the Secretary an annual report, in such form and manner, as the Secretary may require.

(b)(1) The Secretary may waive in whole or in part the application of the requirement of subsection (a)(3) for an entity if he determines that the entity is financially unable to meet such requirement or if he determines that compliance with such requirement would unreasonably limit the ability of the entity to provide for the adequate support of the provision of health services by Corps members.

[(2) The Secretary may waive in whole or in part the application of the requirement of subsection (a)(3) for any entity which is located in a health manpower shortage area in which a significant percentage of the individuals are elderly, living in poverty, or have other characteristics which indicate an inability to repay, in whole or in part, the amounts required in subsection (a)(3).]

[(3)](2) In the event that the Secretary grants a waiver under paragraph (1) [or (2)] the entity shall be required to use the total amount of funds collected by such entity in accordance with subsection (a)(2) for the improvement of the capability of such entity to deliver health services to the individuals in, or served by, the health manpower shortage area.

(c) The excess (if any) of the amount of funds collected by an entity in accordance with subsection (a)(2) over the amount paid to the United States in accordance with subsection (a)(3) shall be used by the entity to expand and improve the provision of health services to the individuals in the health manpower shortage area for which the entity submitted an application or to recruit and retain health manpower to provide health services for such individuals.

(d) Any person who receives health services provided by a Corps member under this subpart shall be charged for such services on a fee-for-service or other basis, at a rate approved by the Secretary, pursuant to regulations. Such rate shall be computed in such a way

as to permit the recovery of the value of such services, except that if such person is determined under regulations of the Secretary to be unable to pay such charge, the Secretary shall provide for the furnishing of such services at a reduced rate [or without charge].

(e) Funds received by the Secretary under an agreement entered into under this section shall be deposited in the Treasury as miscellaneous receipts and shall be disregarded in determining the amounts of appropriations to be requested and the amounts to be made available from appropriations made under section 338 to carry out [this subpart] *sections 331 through 335 and section 337.*

PROVISION OF HEALTH SERVICES BY CORPS MEMBERS

SEC. 335. (a) In providing health services in a health manpower shortage area, Corps members shall utilize the techniques, facilities, and organizational forms most appropriate for the area, [population group, medical facility, or other public facility] and shall, to the maximum extent feasible, provide such services (1) to all individuals in, or served by, such health manpower shortage area regardless of their ability to pay for the services, and [(2) in connection with (A) direct health services programs carried out by the Service, (B) any other direct health services program carried out in whole or in part with Federal financial assistance, or (C) any other health services activity which is in furtherance of the purposes of this subpart.] *(2) in a manner which is cooperative with, and not competitive with, other health care providers serving such health manpower shortage area.*

(b)(1) Notwithstanding any other provision of law, the Secretary may (A) to the maximum extent feasible make such arrangements as he determines necessary to enable Corps members to utilize the health facilities in or serving the health manpower shortage area in providing health services; (B) make such arrangements as he determines are necessary for the use of equipment and supplies of the Service and for the lease or acquisition of other equipment and supplies; and (C) secure the permanent or temporary services of physicians, dentists, nurses, administrators, and other health personnel. If there are no health facilities in or serving such area, the Secretary may arrange to have Corps members provide health services in the nearest health facilities of the Service or may lease or otherwise provide facilities in or serving such area for the provision of health services.

(2) If the individuals in or served by a health manpower shortage area are being served (as determined under regulations of the Secretary) by a hospital or other health care delivery facility of the Service, the Secretary may, in addition to such other arrangements as he may make under paragraph (1), arrange for the utilization of such hospital or facility by Corps members in providing health services, but only to the extent that such utilization will not impair the delivery of health services and treatment through such hospital or facility to individuals wo are entitled to health services and treatment through such hospital or facility.

(c) The Secretary may make one loan to any entity with an approved application under section 333 to assist such entity in meeting the costs of (1) establishing medical, dental, or other health profession practices, including the development of medical practice

management systems; (2) acquiring equipment for use in providing health services; *and* (3) renovating buildings to establish health facilities[; and (4) establishing appropriate continuing education programs]. No loan may be made under this subsection unless an application therefor is submitted to, and approved by, the Secretary. The amount of any such loan shall be determined by the Secretary, except that no such loan may exceed $50,000.

(d) Upon the expiration of the assignment of all Corps members to a health manpower shortage area, the Secretary may (notwithstanding any other provision of law) sell, to any appropriate local entity, equipment and other property of the United States utilized by such members in providing health services. Sales made under this subsection shall be made at the fair market value (as determined by the Secretary) of the equipment or such other property; except that the Secretary may make such sales for a lesser value to an appropriate local entity, if he determines that the entity is financially unable to pay the full market value.

(e)(1)(A) It shall be unlawful for any hospital to deny an authorized physician or dentist member of the Corps admitting privileges when such Corps member otherwise meets the professional qualifications established by the hospital for granting such privileges and agrees to abide by the published bylaws of the hospital and the published bylaws, rules, and regulations of its medical staff.

(B) Any hospital which is found by the Secretary, after notice and an opportunity for a hearing on the record, to have violated this subsection shall upon such finding cease, for a period to be determined by the Secretary, to receive and to be eligible to receive any Federal funds under this Act or under titles XVIII or XIX of the Social Security Act.

(2) For purposes of this subsection, the term "hospital" includes a State or local public hospital, a private profit hospital, a private nonprofit hospital, a general or special hospital, and any other type of hospital (excluding a hospital owned or operated by an agency of the Federal Government), and any related facilities.

[ANNUAL REPORTS

[SEC. 336. The Secretary shall submit an annual report to Congress on May 1 of each year, and shall include in such report with respect to the previous calendar year—

[(1) the number, identity, and priority of all health manpower shortage areas designated in such year and the number of health manpower shortage areas which the Secretary estimates will be designated in the subsequent year;

[(2) the number of applications filed under section 333 in such year for assignment of Corps members and the action taken on each such application;

[(3) the number and types of Corps members assigned in such year to health manpower shortage areas, the number and types of additional Corps members which the Secretary estimates will be assigned to such areas in the subsequent year, and the need for additional members for the Corps;

[(4) the recruitment efforts engaged in for the Corps in such year and the number of qualified individuals who applied for service in the Corps in such year;

[(5) the number of patients seen and the number of patient visits recorded during such year with respect to each health manpower shortage area to which a Corps member was assigned during such year;

[(6) the number of Corps members who elected, and the number of Corps members who did not elect, to continue to provide health services in health manpower shortage areas after termination of their service in the Corps and the reasons (as reported to the Secretary) of members who did not elect for not making such election;

[(7) the results of evaluations and determinations made under section 333(a)(1)(D) during such year; and

[(8) the amount charged during such year for health services provided by Corps members, the amount which was collected in such year by entities in accordance with agreements under section 334, and the amount which was paid to the Secretary in such year under such agreements.]

NATIONAL ADVISORY COUNCIL

SEC. 337. [(a) There is established a council to be known as the National Advisory Council on the National Health Service Corps (hereinafter in this section referred to as the "Council"). The Council shall be composed of fifteen members appointed by the Secretary as follows:

[(1) Four members shall be appointed from the general public to represent the consumers of health care, as least two of whom shall be individuals who are residents of, members of, or served by Corps members assigned to, a health manpower shortage area.

[(2) Three members shall be appointed from medical, dental, and other health professions.

[(3) One member shall be appointed from a State health planning and development agency (designated under section 1521), one member shall be appointed from a Statewide Health Coordinating Council (designated under section 1524), and one member shall be appointed from a health systems agency (designated under section 1515).

[(4) Three members shall be appointed from the Service, at least two of whom shall be members of the Corps directly engaged in the provision of health services in a health manpower shortage area.

[(5) Two members shall be appointed from the National Council on Health Planning and Development (established under section 1503).

[No individual who is a provider of health care (as defined in section 1531(3)) may be appointed as a member of the Council under paragraph (1), (3), or (5). The Council shall consult with, advise, and make recommendations to, the Secretary with respect to his responsibilities in carrying out this subpart, and shall review and comment upon regulations promulgated by the Secretary under this subpart.]

(a) There is established a council to be known as the National Advisory Council on the National Health Service Corps (hereinafter in this section referred to as the "Council"). The Council shall be com-

posed of not more than 15 members appointed by the Secretary. The Council shall consult with, advise, and make recommendations to, the Secretary with respect to his responsibilities in carrying out this subpart, and shall review and comment upon regulations promulgated by the Secretary under this subpart.

(b)(1) Members of the Council shall be appointed for a term of three years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of such term. No member shall be removed, except for cause. Members may *not* be reappointed to the Council.

(2) Members of the Council (other than members who are officers or employees of the United States), while attending meetings or conferences thereof or otherwise serving on the business of the Council, shall be entitled to receive for each day (including traveltime) in which they are so serving the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule; and while so serving away from their homes or regular places of business all members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 of the United States Code for persons in the Government service employed intermittently.

(c) Section 14 of the Federal Advisory Committee Act shall not apply with respect to the Council.

AUTHORIZATION OF APPROPRIATION

SEC. 338. (a) To carry out the purposes of [this subpart] *sections 331 through 335 and section 337* there are authorized to be appropriated $47,000,000 for the fiscal year ending September 30, 1978; $64,000,000 for the fiscal year ending September 30, 1979; [and] $82,000,000 for the fiscal year ending September 30, 1980; *$99,000,000 for the fiscal year ending September 30, 1982; $110,000,000 for the fiscal year ending September 30, 1983; and $120,000,000 for the fiscal year ending September 30, 1984.*

(b) An appropriation under an authorization under subsection (a) for any fiscal year may be made at any time before that fiscal year and may be included in an Act making an appropriation under an authorization under subsection (a) for another fiscal year; but no funds may be made available from any appropriation under such authorization for obligation under [this subpart] *sections 331 through 335 and section 337* before the fiscal year for which such appropriation is authorized.

NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP PROGRAM

SEC. [751.] *338A* (a) The Secretary shall establish the National Health Service Corps Scholarship Program (hereinafter in this subpart referred to as the "Scholarship Program") to assure an adequate supply of trained physicians, dentists, and nurses for the National Health Service Corps (hereinafter in this subpart referred to as the "Corps") and, if needed by the Corps, podiatrists, optometrists, pharmacists, graduates of schools of veterinary medicine, graduates of schools of public health, grauduates of programs in health administration, graduates of programs for the training of

physicians assistants, expanded function dental auxiliaries, and nurse practitioners (as defined in section 822), and other health professionals.

(b) To be eligible to participate in the Scholarship Program an individual must—

(1) be accepted for enrollment, or be enrolled, as a full-time student (A) in an accredited (as determined by the Secretary) educational institution in a State and (B) in a course of study or program, offered by such institution and approved by the Secretary, leading to a degree in medicine, osteopathy, dentistry, or other health profession.

(2) be eligible for, or hold, an appointment as a commissioned officer in the Regular or Reserve Corps of the Service or be eligible for selection for civilian service in the Corps;

(3) submit an application to participate in the Scholarship Program; and

(4) sign and submit to the Secretary, at the time of submittal of such application, a written contract (described in subsection (f)) to accept payment of a scholarship and to serve (in accordance with this subpart) for the applicable period of obligated service in a health manpower shortage area.

(c) In disseminating application forms and contract forms to individuals desiring to participate in the Scholarship Program, the Secretary shall include with such forms—

(1) a fair summary of the rights and liabilities of an individual whose application is approved (and whose contract is accepted) by the Secretary, including in the summary a clear explanation of the damages to which the United States is entitled under section [754] *338D* in the case of the individual's breach of the contract; and

(2) such other information as may be necessary for the individual to understand the individual's prospective participation in the Scholarship Program and service in the Corps.

The application form, contract form, and all other information furnished by the Secretary under this subpart shall be written in a manner calculated to be understood by the average individual applying to participate in the Scholarship Program. The Secretary shall make such application forms, contract forms, and other information available to individuals desiring to participate in the Scholarship Program on a date sufficiently early to insure that such individuals have adequate time to carefully review and evaluate such forms and information.

(d) In determining which applications under the Scholarship Program to approve (and which contracts to accept), the Secretary shall give priority—

(1) first, to applications made (and contracts submitted) by individuals who have previously received scholarships under the Scholarship Program or under section 758; and

(2) second, to applications made (contracts submitted)—

(A) for the school year beginning in calendar year 1978, by individuals who are entering their first, second, or third year of study in a course of study or program described in subsection (b)(1)(B) in such school year;

(B) for the school year beginning in calendar year 1979, by individuals who are entering their first or second year

of study in a course of study or program described in subsection (b)(1)(B) in such school year; and

(C) for each school year thereafter, by individuals who are entering their first year of study in a course of study or program described in subsection (b)(1)(B) in such school year.

(e)(1) An individual becomes a participant in the Scholarship Program only upon the Secretary's approval of the individual's application submitted under subsection (b)(3) and the Secretary's acceptance of the contract submitted by the individual under subsection (b)(4).

(2) The Secretary shall provide written notice to an individual promptly upon the Secretary's approving, under paragraph (1), of the individual's participation in the Scholarship Program.

(f) The written contract (referred to in this subpart) between the Secretary and an individual shall contain—

(1) an agreement that—

(A) subject to paragraph (2), the Secretary agrees (i) to provide the individual with a scholarship (described in subsection (g)) in each such school year or years for a period of years (not to exceed four school years) determined by the individual, during which period the individual is pursuing a course of study described in subsection (b)(1)(B), and (ii) to accept (subject to the availability of appropriated funds for carrying out [subpart II of part D of title III)] *sections 331 through 335 and section 337* the individual into the Corps (or for equivalent service as otherwise provided in this subpart); and

(B) subject to paragraph (2), the individual agrees—

(i) to accept provision of such a scholarship to the individual;

(ii) to maintain enrollment in a course of study described in subsection (b)(1)(B) until the individual completes the course of study;

(iii) while enrolled in such course of study, to maintain an acceptable level of academic standing (as determined under regulations of the Secretary by the educational institution offering such course of study); and

(iv) to serve for a time period (hereinafter in the subpart referred to as the "period of obligated service") equal to—

(I) one year for each school year for which the individual was provided a scholarship under the Scholarship Program, or

(II) two years,

whichever is greater, in a health manpower shortage area (designated under section 332) to which he is assigned by the Secretary as a member of the Corps, or as otherwise provided in this subpart;

(2) a provision that any financial obligation of the United States arising out of a contract entered into under this subpart and any obligation of the individual which is conditioned thereon, is contingent upon funds being appropriated for scholarships under this subpart and to carry out the purposes of

[subpart II of part C of title III;] *sections 331 through 335 and sections 337 and 338;*

(3) a statement of the damages to which the United States is entitled, under section [754] *338D* for the individual's breach of the contract; and

(4) such other statements of the rights and liabilities of the Secretary and of the individual, not inconsistent with the provisions of this subpart.

(g)(1) A scholarship provided to a student for a school year under a written contract under the Scholarship Program or under section 758 (relating to scholarships for first-year students of exceptional financial need), shall consist of—

(A) payment to, or (in accordance with paragraph (2)) on behalf of, the student of the amount (except as provided in section 711) of—

(i) the tuition of the student in such school year, and

(ii) all other reasonable educational expenses, including fees, books, and laboratory expenses, incurred by the student in such school year; and

(B) payment to the student of a stipend of $400 per month (adjusted in accordance with paragraph (3)) for each of the 12 consecutive months beginning with the first month of such school year.

(2) The Secretary may contract with an educational institution, in which a participant in the Scholarship Program is enrolled, for the payment to the educational institution of the amounts of tuition and other reasonable educational expenses described in paragraph (1)(A). Payment to such an educational institution may be made without regard to section 3648 of the Revised Statutes (31 U.S.C. 529).

(3) The amount of the monthly stipend, specified in paragraph (1)(B) and as previously adjusted (if at all) in accordance with this paragraph, shall be increased by the Secretary for each school year ending in a fiscal year beginning after September 30, 1978, by an amount (rounded to the next highest multiple of $1) equal to the amount of such stipend multiplied by the overall percentage (as set forth in the report transmitted to the Congress under section 5305 of title 5, United States Code) of the adjustment (if such adjustment is an increase) in the rates of pay under the General Schedule made effective in the fiscal year in which such school year ends.

(h) Notwithstanding any other provision of law, individuals who have entered into written contracts with the Secretary under this section, while undergoing academic training, shall not be counted against any employment ceiling affecting the Department.

[(i) The Secretary shall report to Congress on March 1 of each year—

[(1) the number, and type of health profession training, of students receiving scholarships under the Scholarship Program:

[(2) the educational institutions at which such students are receiving their training;

[(3) the number of applications filed under this section in the school year beginning in such year and in prior school years; and

[(4) the amount of tuition paid in the aggregate and at each educational institution for the school year beginning in such year and for prior school years.

[(j) The administrative unit which administers section 770 shall—

[(1) participate in the development of regulations, funding priorities, and application forms, and

[(2) be consulted by, and may make recommendations to, the Secretary in the review of applications for scholarships and grants,

[with respect to the Scholarship Program.]

OBLIGATED SERVICE

SEC. [752.] *338 B* (a) Except as provided in section [753] *338C* each individual who has entered into a written contract with the Secretary under section [751] *338A* shall provide service in the full-time clinical practice of such individual's profession as a member of the Corps for the period of obligated service provided in such contract.

(b)(1) The Secretary shall notify each individual required to provide service under the Scholarship Program, not later than 60 days before the date described in paragraph (5), of the opportunity of such individual to serve in the full-time clinical practice of his profession either as a commissioned officer in the Regular or Reserve Corps of the Service or as a civilian member of the Corps. The Secretary shall include in such notice sufficient information regarding the advantages and disadvantages to each alternative to enable an individual to make a decision on an informed basis.

(2) To be eligible to provide obligated service as a commissioned officer in the Service, an individual shall notify the Secretary, not later than 30 days before the date described in paragraph (5), of the individual's desire to provide such service as such an officer.

(3) If an individual who has notified the Secretary under paragraph (2) qualifies for an appointment as such an officer, the Secretary shall, as soon as possible after the date described in paragraph (5), appoint the individual as a commissioned officer of the Regular or Reserve Corps and of the Service and shall designate the individual as a member of the Corps. If an individual who has notified the Secretary under paragraph (2) does not so qualify, the Secretary shall, as soon as possible after the date described in paragraph (5), appoint such individual in accordance with paragraph (4).

(4) Except as provided in paragraph (3) and in section [753] *338C* the Secretary shall appoint each individual, as soon as possible after the date described in paragraph (5), to serve in the full-time clinical practice of his profession as a civilian member of the Corps.

(5)(A) With respect to an individual receiving a degree from a school of medicine, osteopathy, or dentistry, the date referred to in paragraphs (1) through (4) shall be the date upon which the individual completes the training required for such degree, except that the Secretary shall, at the request of such individual, defer such date until the end of the period of time (not to exceed three years or such greater period as the Secretary, consistent with the needs of the Corps, may authorize) required for the individual to com-

plete an internship, residency, or other advanced clinical training. With respect to an individual receiving a degree from a school of veterinary medicine, optometry, podiatry, or pharmacy, the date referred to in paragraphs (1) through (4) shall be the date upon which the individual completes the training required for such degree, except that the Secretary shall, at the request of such individual, defer such date until the end of the period of time (not to exceed one year or such greater period as the Secretary, consistent with the needs of the Corps, may authorize) required for the individual to complete an internship, residency, or other advanced clinical training. No period of internship, residency, or other advanced clinical training shall be counted toward satisfying a period of obligated service under this subpart.

(B) With respect to an individual receiving a degree from an institution other than a school referred to in subparagraph (A); the date referred to in paragraphs (1) through (4) shall be the date upon which the individual completes his academic training leading to such degree.

(c) An individual shall be considered to have begun serving a period of obligated service—

(1) on the date such individual is appointed as an officer in a Regular or Reserve Corps of the Service or as a member of the Corps, or

(2) in the case of an individual who has entered into an agreement with the Secretary under section [753] *338C* on the date specified in such agreement,

whichever is earlier.

(d) The Secretary shall assign individuals performing obligated service in accordance with a written contract under the Scholarship Program to health manpower shortage areas in accordance with [subpart II of part D of title III] *sections 331 through 335 and sections 337 and 338.* If the Secretary determines that there is no need in a health manpower shortage area (designated under section 332) for a member of the profession in which an individual is obligated to provide service under a written contract, the Secretary may detail such individual to serve his period of obligated service as a full-time member of such profession in such unit of the Department as the Secretary may determine.

(e) Notwithstanding any other provision of this title, if the Secretary determines that an individual who is or has been a participant in the Scholarship Program demonstrates exceptional promise for medical research, the Secretary may permit such individual to perform his service obligation under the National Research Service Award program established under section 472.

[PRIVATE PRACTICE] *INDEPENDENT PRACTICE*

SEC. [753.] *338C.* (a) The Secretary [shall] *may, to the extent permitted by, and consistent with, the requirements of applicable State law,* release an individual from all or part of [his] *the* service obligation under section [752(a)] section *338B(a) or under section 225 as in effect prior to October 1, 1977* if the individual applies for such a release under this section and enters into a written agreement with the Secretary under which the individual agrees to engage for a period equal to the remaining period of [his] *the*

service obligation in the full-time [private clinical practice] *independent practice* (including service as a salaried employee in an entity directly providing health services) of [his] *the individual's* health profession—

(1) in the case of an individual who is performing obligated service as a member of the Corps in a health manpower shortage area on the date of his application for such a release, in the health manpower shortage area in which such individual is serving on such date; or

(2) in the case of any other individual, in a health manpower shortage area (designated under section 332) which has a priority for the assignment of Corps members under section 333(c).

(b) The written agreement described in subsection (a) shall—

(1) provide that during the period of [private practice] *independent practice* by an individual pursuant to the agreement—

(A) any person who receives health services provided by the individual in connection with such practice will be charged for such services at the usual and customary rate prevailing in the area in which such services are provided, except that if such person is unable to pay such charge, such person shall be charged at a reduced rate or not charged any fee; [and]

(B) the individual in providing health services in connection with such practice shall not discriminate against any person on the basis of such person's ability to pay for such services or because payment for the health services provided to such person will be made under the insurance program established under part A or B of title XVIII of the Social Security Act or under a State plan for medical assistance approved under title XIX of such Act; and

(C) the individual, in providing health care services covered by part A or part B of title XVIII of the Social Security Act, shall agree to accept assignment and to accept the reasonable charge as payment in full;

(2) provide for the submission of periodic reports as required by the Secretary;

[(2)] *(3)* contain such additional provisions as the Secretary may require to carry out the purposes of this section.

For purposes of paragraph (1)(A), the Secretary shall by regulation prescribe the method for determining a person's ability to pay a charge for health services and the method of determining the amount (if any) to be charged such person based on such ability.

(c) The Secretary shall provide to each individual released from service obligation under this section technical assistance to assist such individual in fulfilling his or her agreement under this section.

(d) Failure to meet the terms of the agreements under subsection (b) shall be considered a breach of the scholarship contract as provided in section 338D.

(e) The Secretary shall, out of appropriations authorized under section 338, pay to individuals participating in independent practice under this section the cost of such individual's malpractice insurance and the lesser of—

(1)(A) $10,000 in the first year of obligated service;

(B) $7,500 in the second year of obligated service;

(C) $5,000 in the third year of obligated service; and
(D) $2,500 in the fourth year of obligated service; or
(2) an amount determined by subtracting such individual's net income before taxes from the income the individual would have received as a member of the Corps for each such year of obligated service.

BREACH OF SCHOLARSHIP CONTRACT

SEC. [754.] *338D* [(a) An individual (other than an individual described in subsection (b)) who has entered into a written contract with the Secretary under section 751 and who fails to accept payment, or instructs the educational institution in which he is enrolled not to accept payment, in whole or in part, of a scholarship under such contract, shall, in addition to any service or other obligation or liability under the contract, be liable to the United States for the amount of $1,500 as liquidated damages.]

[(b)] *(a)* An individual who has entered into a written contract with the Secretary under section [751] *338A* and who—

(1) fails to maintain an acceptable level of academic standing in the educational institution in which he is enrolled (such level determined by the educational institution under regulations of the Secretary),

(2) is dismissed from such educational institution for disciplinary reasons, [or]

(3) voluntarily terminates the training in such an educational institution for which he is provided a scholarship under such contract, before the completion of such training, *or*

(4) fails to accept payment, or instructs the educational institution in which he is enrolled not to accept payment, in whole or in part, of a scholarship under such contract,

in lieu of any service obligation arising under such contract, shall be liable to the United States for the amount which has been paid to him, or on his behalf, under the contract.

[(c)] *(b)* If an individual breaches his written contract by failing [(for any reason)] *(for any reason not specified in subsection (a) or section 338F(b))"* either to begin such individual's service obligation in accordance with section [752 or 753] *338B or 338C* or to complete such service obligation, the United States shall be entitled to recover from the individual an amount determined in accordance with the formula

$$A = 3\phi(t - s/t)$$

in which "A" is the amount the United States is entitled to recover, "ϕ" is the sum of the amounts paid under this subpart to or on behalf of the individual and the interest on such amounts which would be payable if at the time the amounts were paid they were loans being interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States; "t" is the total number of months in the individual's period of obligated service; and "s" is the number of months of such period served by him in accordance with section [752] *338B* or a written agreement under section [753] *338C*. Any amount of damages which the United States is entitled to recover under this subsection shall, within the

one year period beginning on the date of the breach of the written contract (*or such longer period as specified by the Secretary for good cause shown*), be paid to the United States.

[(d)] *(c)*(1) Any obligation of an individual under the Scholarship Program (or a contract thereunder) for service or payment of damages shall be canceled upon the death of the individual.

(2) The Secretary shall by regulation provide for the waiver or suspension of any obligation of service or payment by an individual under the Scholarship Program (or a contract thereunder) whenever compliance by the individual is impossible or would involve extreme hardship to the individual and if enforcement of such obligation with respect to any individual would be unconscionable.

(3) Any obligation of an individual under the Scholarship Program (or a contract thereunder) for payment of damages may be released by a discharge in bankruptcy under title 11 of the United States Code only if such discharge is granted after the expiration of the five-year period beginning on the first date that payment of such damages is required.

SPECIAL [GRANTS] *LOANS* FOR FORMER CORPS MEMBERS TO ENTER PRIVATE PRACTICE

SEC. [755] *338E.* (a) The Secretary may, *out of appropriations authorized under section 338,* make one [grant] *loan* to an individual [(other than an individual who has entered into an agreement under section 753)]—

(1) who has completed his period of obligated service in the Corps, and

(2) who has agreed in writing—

(A) to engage in the private full-time clinical practice of his profession in a health manpower shortage area (designated under section 332 [and described in paragraphs (1) and (2) of section 753(a))] for a period (beginning not later than one year after the date he completed his period of obligated service in the Corps) of not less than one year;

(B) to conduct such practice in accordance with the provisions of section [753(b)(1)] *338C(b)(1)*; and

(C) to such additional conditions as the Secretary may require to carry out the purposes of this section;

to assist such individual in meeting the costs of beginning the practice of such individual's profession in accordance with such agreement, including the costs of acquiring equipment and renovating facilities for use in providing health services, and of hiring nurses and other personnel to assist in providing health services. [Such grant may not be used for the purchase or construction of any building.]

(b) The amount of the [grant] *loan* under subsection (a) to an individual shall be—

(1) $12,500, if the individual agrees to practice his profession in accordance with the agreement for a period of at least one year, but less than two years; or

(2) $25,000 if the individual agrees to practice his profession in accordance with the agreement for a period of at least two years.

(c) The Secretary may not make a [grant] *loan* under this section unless an application therefor has been submitted to, and approved by, the Secretary. *The Secretary shall set by regulation interest rates and repayment terms for loans under this section.*

(d) If the Secretary determines that an individual has breached a written agreement entered into under subsection (a), he shall, as soon as practicable after making such determination notify the individual of such determination. If within [120] *60* days after the date of giving such notice, such individual is not practicing his profession in accordance with the agreement under such subsection and has not provided assurances satisfactory to the Secretary that he will not knowingly violate such agreement again, the United States shall be entitled to recover from such individual [an amount determined under section 754(c), except that in applying the formula contained in such section "ϕ" shall be the sum of the amount of the grant made under subsection (a) to such individual and the interest on such amount which would be payable if at the time it was paid it was a loan bearing interest at the maximum legal prevailing rate, "t" shall be the number of months that such individual agreed to practice his profession under such agreement, and "s" shall be the number of months that such individual practices his profession in accordance with such agreement] *within 90 days, the full amount of the principal and interest owed by such individual under this section.*

AUTHORIZATION OF APPROPRIATIONS

SEC. [756.] *338F.* (a) There are authorized to be appropriated for scholarships under [this subpart] *sections 338A through 338E* $75,000,000 for the fiscal year ending September 30, 1978, $140,000,000 for the fiscal year ending September 30, 1979, and $200,000,000 for the fiscal year ending September 30, 1980. For the fiscal year ending September 30, 1981, and for each of the [two] *three* succeeding fiscal years, there are authorized to be appropriated such sums as may be necessary to continue to make scholarship awards to students who have entered into written contracts under the Scholarship Program before October 1, 1980.

[(b) Of the sums appropriated under this section (1) 90 percent shall be obligated for scholarships for medical, osteopathic, and dental students, and (2) 10 percent of such 90 percent shall be obligated for scholarships for dental students.]

(b) Notwithstanding any other provision of this subpart—

(1) the Secretary may not enter into any new or continuing scholarship contract after September 30, 1981, unless such contract provides that, at the Secretary's option, the contract may be converted into a loan agreement under which the individual is relieved of his service obligation and becomes liable for repayment, at 7 percent simple interest from the date of disbursement, of all sums provided to such individual by the Federal Government under such contract; and

(2) the Secretary may negotiate with individuals for the modification of any scholarship contract entered into under this subpart prior to October 1, 1981, to include the provision described in paragraph (1) of this subsection.

(c) *In establishing any loan agreement under subsection (b), the Secretary shall set reasonable terms for the period of the loan and the date upon which repayment begins.*

(d) In implementing subsection (b), the Secretary may negotiate interest rates and repayment terms more favorable to the individual conditioned upon such individual establishing an independent practice in a health manpower shortage area (designated under section 332).

(e) Before converting any scholarship contract into a loan agreement under subsection (b), the Secretary must make a determination that the services of the individual would not be needed in a health manpower shortage area (as defined in section 332).

INDIAN HEALTH SCHOLARSHIP PROGRAM

SEC. [757.] *338G.* (a) In addition to the sums authorized to be appropriated under section [756(a)] *section 338F(a)* to carry out the Scholarship Program, there are authorized to be appropriated $5,450,000 for the fiscal year ending September 30, 1978, $6,300,000 for the fiscal year ending September 30, 1979, $7,200,000 for the fiscal year ending September 30, 1980, $9,000,000 for the fiscal year ending September 30, 1981, $10,300,000 for the fiscal year ending September 30, 1982, $11,800,000 for the fiscal year ending September 30, 1983, and $13,600,000 for the fiscal year ending September 30, 1984, to provide scholarships under the Scholarship Program to provide physicians, osteopaths, dentists, veterinarians, nurses, optometrists, podiatrists, pharmacists, public health personnel, and allied health professionals to provide services to Indians. Such scholarships shall be designated "Indian Health Scholarships" and shall be made in accordance with this subpart, except as provided in subsection (b).

(b)(1) The Secretary, acting through the Indian Health Service, shall determine the individuals who shall receive the Indian Health Scholarships, shall accord priority to applicants who are Indians, and shall determine the distribution of the scholarships on the basis of the relative needs of Indians for additional services by specific health professions.

(2) The active duty service obligation prescribed in the written contract entered into under this subpart shall be met by the recipient of an Indian Health Scholarship by service in the Indian Health Service, in a program assisted under title V of the Indian Health Care Improvement Act, or in the private practice of the applicable profession if, as determined by the Secretary in accordance with guidelines promulgated by the Secretary, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians.

(c) For purposes of this section, the term "Indians" has the same meaning given that term by subsection (c) of section 4 of the Indian Health Care Improvement Act and includes individuals described in clauses (1) through (4) of that subsection.

CONTRACTS

SEC. 338H. The Secretary may enter into contracts under this subpart only to such extent or in such amounts as are provided in Appropriations Acts.

X. ADDITIONAL VIEWS TO S. 801

We do not agree with the rationale for limiting the size of the Corps that is set forth in the contents of this report.

The report concludes "that physicians and other health practitioners, influenced by competitive market forces, on their own initiative, will increasingly move into currently underserved areas." While there is some analytical and anecdotal evidence that this is the case, we know of no evidence that physicians are setting up practices in the most isolated or poor rural communities or in inner city poverty-striken neighborhoods in sufficient numbers to meet the critical health care needs of those communities. Competitive market forces have proven a less than perfect mechanism for physician distribution. In Boston, for example, the physician to population ratio is 625 physicians per 100,000, compared with the national average of 180 per 100,000. Yet almost half the people in Boston are dependent on community health centers, and hospital emergency rooms and clinics for health care services. Forty-nine percent of Colorado's physicians practice in Denver where only 20 percent of the State's population resides. Alabama's physician/population ratio is 123/100,000. Yet, Jefferson County, Alabama with 18 percent of the State's population has 40 percent of the State's physicians.

The Department of Health and Human Services projected a need for 16,400 primary care physicians and psychiatrists in underserved areas by 1990. The Committee bill assumes that market forces and competition in the private sector will combine to force physicians into medically underserved areas and limit the Federal role in meeting that need to 2,500 practitioners. We believe that assumption is unduly optimistic, and is belied by the evidence at hand.

We are not necessarily wedded to the National Health Service Corps as the only mechanism for meeting the health care needs of medically underserved populations. We are committed to the goal of assuring access to quality health care services by all Americans regardless of geographic location or financial resources. If the private sector is willing and able to meet that goal with minimal Federal involvement, we would be delighted. Over the next few years, we intend to monitor closely the private sector's progress in meeting the physician needs of medically underserved populations. And if those needs are not being met, we will seek remedial legislation to define the appropriate Federal role in assuring a more equitable distribution of physician services.

Edward M. Kennedy.
Jennings Randolph.
Harrison A. Williams, Jr.
Claiborne Pell.
Thomas F. Eagleton.
Donald W. Riegle, Jr.
Howard M. Metzenbaum.

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